

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 721 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

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KASAM ISMIAL MIYANA

Versus

STATE OF GUJARAT  
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Appearance:

MR ZUBIN F BHARDA for Petitioner

MS PUNANI AGP for Respondent No. 1, 2, 3  
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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 08/07/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

The petitioner challenges the order of preventive detention dated 3rd October, 1998, made by the Commissioner of Police, Rajkot, under the powers conferred upon him under sub-section (1) of section 3 of

the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as 'the Act').

The petition requires to be allowed on a short ground that the vital document referred to in the grounds of detention and relied upon by the Detaining Authority for recording his subjective satisfaction has not been supplied to the petitioner. The grounds of detention suggest that the petitioner is held to be a 'bootlegger' within the meaning of section 2 (b) of the Act, and his activities are detrimental to the maintenance of public order. Earlier also on similar ground, the petitioner was detained under the Act. In paragraph-7 of the grounds of detention there is a clear stipulation that earlier on 18th January, 1996, the petitioner had been detained under the Act and inspite of such preventive detention, the petitioner has continued his anti-social activities. It is, therefore, obvious that the Detaining Authority has considered the earlier order of detention while recording his subjective satisfaction and has also relied upon the same. It was, therefore, imperative for the Detaining Authority to furnish a copy of the said order to the petitioner along with the order and the grounds of detention. The petitioner's detention is, therefore, vitiated.

For the above reasons recorded in the judgment, the petition is allowed. The impugned order dated 3rd October, 1998 (Annexure to the petition) is quashed and set aside. Rule is made absolute. The petitioner, unless is required to be detained in some other case, be released forthwith.

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JOSHI\*